

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the
California Renewables Portfolio Standard
Program.

Rulemaking 04-04-026
(Filed April 22, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
FINDING THE COMMUNITY ENVIRONMENTAL COUNCIL
ELIGIBLE TO CLAIM INTERVENOR COMPENSATION**

I. Summary

The Community Environmental Council (Community Council) is eligible to claim compensation in this proceeding. However, a finding of eligibility for compensation does not necessarily guarantee an award of compensation. Community Council should not duplicate the efforts of other parties, which could result in a reduction in the amount of compensation ultimately awarded. The requirements of Pub. Util. Code §§ 1801-1804¹ are addressed below.

II. NOI Requirements

A. Timely Filing

Pursuant to § 1804(a)(1), a customer who intends to seek a compensation award shall, within 30 days after the Prehearing Conference (PHC), file and serve a Notice of Intent (NOI) to claim compensation on all parties to the proceeding. The first PHC in this proceeding was held on May 5, 2004; the second PHC was

¹ All statutory references are to the Pub. Util. Code.

held November 3, 2004; the third PHC was held May 18, 2005. Community Council filed its NOI November 7, 2005. No objection or response to the NOI has been filed.

Community Council acknowledges that its NOI is not within the 30-day timeframe. Community Council explains that it failed to file its NOI earlier because it did not realize that a new NOI was required in this proceeding, after it had been found eligible to claim intervenor compensation in another proceeding this year.² Although Community Council has, due to misunderstanding them, failed to follow the NOI rules, no party has objected and no party will suffer prejudice from a grant of eligibility at this time. The issues on which Community Council intends to participate are only now, with the issuance of Decision (D.) 05-11-025, ready to be considered in this proceeding.

B. Customer Status

Pursuant to D. 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and whether the intervenor is (1) a participant representing consumers, (2) a representative authorized by a customer, or (3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.

Community Council explains that it is a regional customer-oriented non-profit organization, based in Santa Barbara for over 35 years, and is the leading local non-profit environmental organization in the area. It has approximately

² In Rulemaking (R.) 03-10-003, Community Council was found eligible by the Administrative Law Judge's Ruling Approving the Notice of Intent to Claim Intervenor Compensation by the Community Environmental Council (March 22, 2005).

2,000 members, who are generally Southern California Edison Company customers who have an interest in matters that may affect their utility bills and the type of energy they receive. Since 2004, the organization's focus has shifted to energy issues and it has initiated a regional effort to reduce reliance of local communities on fossil fuels over the next 30 years. Community Council is a Category 3 customer because it is a membership organization specifically focused on representing members with concerns about environmental protection and sustainability, and how those concerns affect or are affected by electricity rates, services, and public policies.

Community Council states that it will be the only intervenor representing solely the interests of residential and small commercial customers in the Central Coast region of California. Community Council states that it will coordinate its efforts with other parties to ensure that its work complements the work of other parties with similar positions, and avoid any undue duplication of effort.

C. Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Section 1802(g) defines "significant financial hardship":

"Significant financial hardship" means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. Alternatively, the

customer may make the required showing in the request for an award of compensation.

Community Council meets this requirement through a rebuttable presumption of eligibility, pursuant to § 1804(b)(1), as it was found eligible for compensation in another proceeding that commenced within one year of this proceeding (Administrative Law Judge Ruling dated March 22, 2005, in R.03-10-003). Should any party rebut this presumption, Community Council is granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal filing.

D. Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires an NOI to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted.

Community Council states that it intends to participate actively in this proceeding, including submitting briefs and preparing testimony when appropriate. Community Council states that it intends to ensure that it participates in all aspects of this proceeding that could affect the formation of CCAs subject to RPS requirements in the Central Coast region.

E. Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive.

Community Council notes that because it is a relatively new participant in Commission proceedings, it is not possible for it to predict with accuracy the total time it anticipates devoting to this proceeding. Community Council currently estimates a total projected budget of approximately \$49,000 for this

proceeding, as outlined below, based on proposed hourly rates that Community Council will address in its request for compensation.

Amount	Description
Fees	
\$33,000	150 hours of attorney time by Tam Hunt (Energy Program Director) at \$220/hour
\$13,200	60 hours of time of consultant to be identified at \$220/hour
Costs	
\$ 2,800	Miscellaneous costs and travel
\$49,000	Total

Community Council satisfactorily presents an itemized estimate of the compensation it expects to request, although we will require more specificity in its costs when Community Council ultimately seeks compensation. Moreover, Community Council, like any intervenor, must fully support its ultimate request for compensation, including the reasonableness of the hours spent and hourly rates.

IT IS RULED that:

1. The Community Environmental Council (Community Council) has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship, and is found eligible for compensation in this proceeding.

2. A finding of eligibility in no way assures compensation.
3. Community Council shall make every effort to reduce duplication of effort with other parties in its participation in this proceeding.

Dated December 5, 2005, at San Francisco, California.

/s/ ANNE E. SIMON

Anne E. Simon
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Finding the Community Environmental Council Eligible to Claim Intervenor Compensation on all parties of record in this proceeding or their attorneys of record.

Dated December 5, 2005, at San Francisco, California.

/s/ FANNIE SID
Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.